

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10660 of 2005

For Approval and Signature:

THE HON'BLE MR.JUSTICE A.M.KAPADIA

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1	Whether Reporters of Local Papers may be allowed to see the judgement ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgement ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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SAMRAT ALIAS SAVITABEN VINODBHAI BARIA - Petitioner(s)

Versus

NARENDRA SANKALCHAND SHAH &10 - Respondent(s)

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Appearance :

MS SNEHA A JOSHI for Petitioner No(s).: 1 - 1.

Not Found for Respondent No(s).: 1, 2,3,6,7,8,9,10.

MR YM THAKKAR for Respondent No(s).: 4,5.

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CORAM :THE HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 15/06/2005

ORAL JUDGMENT

1. Rule. Mr. Y.M. Thakkar, learned advocate appears and waives service of notice of rule on behalf of respondent Nos.4 and 5. Rest of the respondents are not required to be served as according to the learned advocates appearing for the parties, they are not the real contesting parties.

2. By filing this petition under Articles 226 and 227 of the Constitution of India, the petitioners seek to challenge the order dated 2.5.2005 recorded below Ex.138 in RCS No.842 of 1997 by the learned Civil Judge (SD), Godhra by which the application filed by the petitioners to carry out the amendment in terms of the order dated 10.3.2005 recorded below Exs.128 and 130 of the said suit has been rejected on the ground that the petitioners have not carried out the amendment in time as per the statutory provisions contained under Order 6 Rule 18 of the Code of Civil Procedure.

3. Having heard Ms. Sneha Joshi, learned advocate appearing for the petitioners and Mr. YM Thakkar, learned advocate for respondents Nos.4 and 5 who are the real contesting parties as the other respondents have not contested the suit and having perused the impugned order and on the facts and circumstances emerging from the record of the case, to do substantial justice, the order which is impugned in this petition deserves to be quashed and set aside by allowing the application Ex.138 and thereby permitting the petitioners to carry out the amendment in terms of the order dated 10.3.2005 recorded below Ex.128 and 130 of the said suit.

4. Seen in the above context, this petition deserves to be allowed by granting prayer made therein.

5. For the foregoing reasons, the petition succeeds and accordingly it is allowed with no order as to costs. Resultantly, Order passed below Ex.138 in RCS No.842 of 1997 by the learned Civil Judge (SD), Godhra is hereby quashed and set aside. Resultantly the application Ex.138 is allowed. The petitioners are permitted to amend the cause title of RCS No.842 of 1997 in terms of order dated 10.3.2005 recorded below Ex.128 and 130 of RCS No.842 of 1997.

6. The petitioners to carry out the amendment within 14 days from the receipt of the order by the trial court. It is further directed that the trial court shall give expeditious hearing to RCS No.842 of 1997 by giving top priority to it and try to conclude and disposed it of on or before 31.12.2005.

7. Rule is made absolute to the aforesaid extent.

8. DS for resp0dnetn Nos.4 and 5 is permitted.

(A.M. Kapadia, J.)

(karan)